



Kansas Health Care Stabilization Fund

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Information Pertaining to Senate Bill 117
Submitted to the House Insurance Committee
On Behalf of the Health Care Stabilization Fund Board of Governors
By Charles L. Wheelen
March 16, 2015

The Health Care Stabilization Fund Board of Governors neither supports nor opposes SB117. The following information is provided for Committee members who may not already be acquainted with the self-insurance provisions under the Health Care Provider Insurance Availability Act (K.S.A. 2014 Supp. 40-3401 et seq.).

Current law allows certain health care providers to self-insure their basic \$200,000 per claim \$600,000 annual aggregate professional liability coverage. The original legislative intent was to allow major institutions with sufficient assets to set aside reserves for payment of claims. The principal eligibility criterion is an annual premium for the \$200,000/\$600,000 professional liability insurance (PLI) policy equal to or exceeding \$100,000. This threshold was established in 1976 when the original Health Care Provider Insurance Availability Act became law. If the applicant is not already purchasing a PLI policy with those limits, our Board of Governors is required to use the rating procedures approved by the Commissioner of Insurance for use by the Health Care Provider Insurance Availability Plan (a joint underwriting association created pursuant to K.S.A. 40-3413) to determine if the annual premium would equal or exceed \$100,000.

There is a provision in K.S.A. 40-3414 that allows a health care system to be eligible for self-insurance if the system owns and operates two or more licensed medical care facilities and the combined cost of premiums for the entire system is \$100,000 or more. The phrase “medical care facility” is defined in K.S.A. 40-3401 by reference to a section in the hospital laws. As a result, the phrase “medical care facility” includes general hospitals, special hospitals, critical access hospitals, ambulatory surgical centers, and recuperation centers. **Senate Bill 117 would add new language to allow a health care system consisting of two or more assisting living facilities, nursing facilities, or residential health care facilities to aggregate their basic professional liability insurance premiums for purposes of eligibility to become self-insured in accordance with K.S.A. 40-3414 as amended.**

The provisions of K.S.A. 40-3414 require the HCSF Board of Governors to evaluate: “(1) the financial condition of the applicant, (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims, (3) the amount and liquidity of assets reserved for the settlement of claims or potential claims and (4) any other relevant factors.” This statutory duty is a very serious one.

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If our Board of Governors were to grant a certificate of self-insurance to a health care provider or health care system that does not engage in responsible claim handling procedures or is not financially sound, there could be serious consequences. Under a worst case scenario, a self-insured facility might declare bankruptcy and discontinue operations. In that case, the HCSF could become liable for any and all unresolved claims against the facility as well as any claims that might arise after the facility closed. For this reason, the original application for a certificate of self-insurance is somewhat demanding. Furthermore, those health care providers and systems that have been granted a certificate of self-insurance are required to annually resubmit the pertinent information in order to renew their certificate of self-insurance.

The HCSF Board of Governors has heretofore granted thirteen certificates of self-insurance. Those self-insured health care providers are listed below. The corresponding number indicates the year that a certificate of self-insurance was granted. There are footnotes identifying the two self-insured health care systems; one in Johnson County and the other in Shawnee County. It is noteworthy that these two health care systems evolved over time. The original certificate of self-insurance was granted to the hospital. Later, as those two hospitals acquired additional licensed medical care facilities, those additional facilities became self-insured as part of a health care system established by the original self-insured hospital. It should be noted that all of these health care providers have supplemental coverage via the Health Care Stabilization Fund and pay the appropriate premium surcharge for their HCSF coverage.

Self Insured Health Care Providers as of January 1, 2015

Shawnee Mission Medical Center (1989)(a)
Stormont Vail Healthcare (1989)(b)
Via Christi Regional Medical Center (1995)
Cotton O'Neil Endoscopy (1997)(b)
Stormont Vail Single Day Surgery (1997)(b)
Salina Regional Health Center (2001)
St Francis Hospital and Medical Center (2002)
Hutchinson Regional Medical Center (2005)
St Luke's South Hospital (2005)
Shawnee Mission Surgery Center (2006)(a)
Cushing Memorial Hospital (2007)
Shawnee Mission Prairie Star (2009)(a)
Stormont-Vail ExcellENT Surgery Center (2012)(b)

- a) A component of Shawnee Mission health care system
- b) A component of Stormont Vail health care system

If any member of the House Insurance Committee has a question regarding how we administer the provisions of K.S.A. 40-3414, we are available to respond.

February 4, 2015

CORRECTED

The Honorable Jeff Longbine, Chairperson
Senate Committee on Financial Institutions and Insurance
Statehouse, Room 235-E
Topeka, Kansas 66612

Dear Senator Longbine:

SUBJECT: Corrected Fiscal Note for SB 117 by Senate Committee on Financial
Institutions and Insurance

In accordance with KSA 75-3715a, the following corrected fiscal note concerning SB 117 is respectfully submitted to your committee.

SB 117 would allow health care systems comprised of two or more health care facilities to aggregate insurance premiums for the purpose of becoming self-insured.

According to the Health Care Stabilization Fund Board of Governors, there are 312 nursing facilities and 208 assisted living and residential health care facilities licensed by the Kansas Department for Aging and Disability Services. Because SB 117 would allow health care facilities to apply for a certificate of self-insurance, the Board would be required to review each application to determine whether the application meets the eligibility criteria. This review process would require approximately 10 staff hours for each application to evaluate claim handling procedures, actuarial analysis of liabilities, fiscal solvency, and the proper establishment of a trust for payment of settlements and judgments. In addition, successful applicants that would be granted a certificate of self-insurance would be required to resubmit the same information annually in order to renew the certificate of self-insurance.

The Board estimates that enactment of SB 117 would require additional expenditures totaling \$40,980, all from the Health Care Stabilization Fund. Of this amount, \$34,332 would be for salaries and wages for 0.50 FTE Compliance Officer and \$6,648 would be for other operating expenditures, including rent, communication expenses, and office equipment. The agency estimates that the bill has potential for 104 applications or renewals each year, with each application or renewal requiring approximately 10 hours of review time. The additional expenditures from the Health Care Stabilization Fund would eventually be collected from health care providers that pay premium surcharges to the fund.

The Honorable Jeff Longbine, Chairperson

February 4, 2015

Page 2—SB 117 Corrected

Enactment of SB 117 may create potential for insurance premium savings for health care facilities that would be approved for a certificate of self-insurance. However, the amount of potential savings cannot be estimated. The Kansas Department of Insurance indicates that the bill would have no fiscal effect on the agency. Any fiscal effect associated with SB 117 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a long horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Chip Wheelen, Health Care Stabilization
Glenda Haverkamp, Insurance Department